

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

12 Misc. 115 (JSR)

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

PERTAINS TO THE FOLLOWING CASE:

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 12-01700 (BRL)

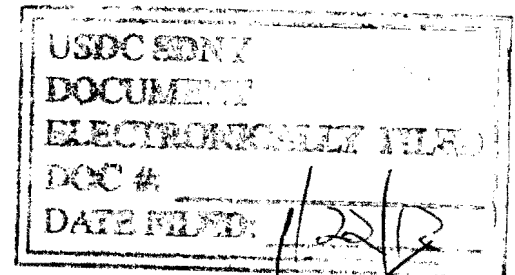
Plaintiff,

12 Civ. 9343 (JSR)

v.

CAPRICE INTERNATIONAL GROUP INC.,
CITIBANK (SWITZERLAND) LTD., ERIC
SCHIFFER D/B/A DESERT ROSE LTD, PINE
CLIFFS INVESTMENT LIMITED, CENARD
INVESTMENTS LTD, AND ADVANCED
STRATEGIES, LTD.,

Defendants.



STIPULATION AND ORDER

JED S. RAKOFF, U.S.D.J.

WHEREAS, Irving H. Picard (the "Trustee"), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et seq.* ("SIPA")

and the estate of Bernard L. Madoff ("Madoff"), filed a complaint (the "Complaint") in the Bankruptcy Court in the above-captioned adversary proceeding on June 6, 2012;

WHEREAS, defendant Advanced Strategies, Ltd. ("Advanced Strategies") filed a motion to withdraw the Bankruptcy Court reference ("Motion") on December 19, 2012, arguing, *inter alia*, that issues related to (i) *Stern v. Marshall*, 131 S. Ct. 2594 (2011), (ii) the safe harbor provision of section 546(e) of the Bankruptcy Code, (iii) antecedent debt or transfer received for value, (iv) the extraterritorial reach of section 550 of the Bankruptcy Code, (v) the "good faith" standard applicable to an initial transferee under section 548(c) and a subsequent transferee under section 550(b) of the Bankruptcy Code, and (vi) the recovery of transfers under section 550(a), raised questions of non-bankruptcy law;

WHEREAS, in exchange for the Trustee's agreement to voluntarily dismiss without prejudice the Complaint in the above-captioned adversary, Advanced Strategies agrees – without prejudice – to withdraw the Motion and to not seek to participate in the consolidated briefing on the merits of certain issues relating to (a) *Stern v. Marshall* pursuant to the Order dated April 13, 2012, No. 12 Civ. 0115 (S.D.N.Y. April 13, 2012) (ECF No. 4); (b) 11 U.S.C. § 546(e) pursuant to the Order dated May 15, 2012, No. 12 Civ. 0115 (S.D.N.Y. May 16, 2012) (ECF No. 119); (c) antecedent debt pursuant to the Order dated May 12, 2012, No. 12 Civ. 0115 (S.D.N.Y. May 16, 2012) (ECF no. 107); (d) the extraterritoriality of SIPA and/or the Bankruptcy Code pursuant to the Order dated June 7, 2012, No. 12 Civ. 0115 (S.D.N.Y. June 6, 2012) (ECF No. 167); (e) the "good faith" standard applicable to initial transferees under 11 U.S.C. § 548(c) and subsequent transferees under 11 U.S.C. § 550(b) pursuant to the Order dated June 23, 2012, No. 12 Civ. 0115 (S.D.N.Y. June 25, 2012) (ECF No. 197); or (f) the recovery of transfers under section 550(a) pursuant to the Order dated August 21 2012, No. 12 Civ. 0115 (S.D.N.Y. August 22,

2012) (ECF No. 314);

WHEREAS, Advanced Strategies has not answered the Trustee's Complaint and no other motions remain pending in either the Bankruptcy Court or the District Court; and

WHEREAS, on January 9, 2013, the Trustee voluntarily dismissed the Complaint in the above-captioned adversary proceeding solely with respect to defendant Advanced Strategies without prejudice pursuant to Rule 41(a)(1)(A) of the Federal Rules of Civil Procedure, as made applicable by Rule 7041 of the Federal Rules of Bankruptcy Procedure, by filing a Notice of Voluntary Dismissal of Adversary Proceeding;

BASED ON THE FOREGOING, IT IS HEREBY:

ORDERED, that the Motion is hereby withdrawn, and the Clerk of Court is ordered to close item number 1 in the docket 12 Civ. 9343 (JSR).

ORDERED, that all matters are deemed dismissed solely as to Advanced Strategies pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

Dated: January 15, 2013
New York, New York



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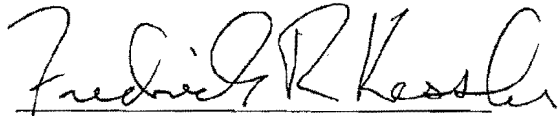
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Attorneys for Advanced Strategies, Ltd.

SO ORDERED.

Dated: January 19 2013
New York, New York


JED S. RAKOFF, U.S.D.J.